MEMORANDUM OF UNDERSTANDING

for Implementation of a Standardized Approach to User Agreements at the
U.S. Department of Energy's Nanoscale Science Research Centers

By and Among

The U.S. Department of Energy
Office of Basic Energy Sciences

and

The U.S. Department of Energy
National Nuclear Security Administration

and

The Center for Nanoscale Materials
at Argonne National Laboratory
as operated by the University of Chicago
under its U.S. Department of Energy Contract

and

The Center for Functional Nanomaterials
at Brookhaven National Laboratory
as operated by Brookhaven Science Associates, LLC
under its U.S. Department of Energy Contract

and

The Molecular Foundry
at Lawrence Berkeley National Laboratory
as operated by the Regents of the University of California
under its U.S. Department of Energy Contract

and

The Center for Integrated Nanotechnologies
at Los Alamos National Laboratory and Sandia National Laboratory
as operated by the Regents of the University of California and Sandia Corporation
under their U.S. Department of Energy Contracts

and

The Center for Nanophase Materials Sciences
at Oak Ridge National Laboratory
as operated by UT Battelle, LLC
under its U.S. Department of Energy Contract

and their respective Field or Site Office Managers

hereinafter referred to collectively as "the Parties"

ARTICLE I. BACKGROUND

A. The National Nanotechnology Program.

1. The 21st Century Nanotechnology Research and Development Act, 15 U.S.C. § 7501 *et seq.*, (the "Nanotechnology Act") was signed into law on December 3, 2003. This legislation codifies programs and activities supported by the National Nanotechnology Initiative (NNI), a multi-agency nanotechnology research and development program that includes DOE.

2. Nanotechnology is the creation and utilization of materials, devices, and systems through the control of matter at the nanometer scale, that is, at the level of atoms, molecules, and supramolecular structures. The essence of nanotechnology is the ability to work at these levels to generate larger structures with fundamentally new modes of organization. These nanostructures are the smallest human-made objects, and they exhibit novel physical, chemical, and biological properties. The goal of nanotechnology is to learn to exploit these properties and efficiently manufacture and use materials incorporating these nanostructures.

3. DOE has established five Nanoscale Science Research Centers (NSRCs) pursuant to the NNI, that are funded by the Office of Basic Energy Sciences. These NSRCs are housed at various National Laboratories, which are operated under contract by the Management and Operating Laboratory contractors.

4. The Nanotechnology Act provides for the establishment of a network of advanced technology user facilities and centers. 15 U.S.C. § 7501(b). An "advanced technology user facility" is defined as "a nanotechnology research development facility supported, in whole or in part, by Federal funds that is open to all United States researchers on a competitive, merit-reviewed basis." 15 U.S.C. § 7509(5). The NSRCs are user facilities under the Nanotechnology Act.

ARTICLE II. PURPOSE

A. The purpose of this MOU is to further the Congressional mandate establishing the NSRCs as user facilities by promoting a consistent, uniform approach to the disposition of intellectual property (IP) rights across all NSRCs that will ensure that all users, including small businesses, are treated fairly and equitably. DOE's intent is to maximize the number and diversity of users at the NSRCs. This MOU sets forth a voluntary agreement by the undersigned National Laboratory and NSRC Directors, the cognizant DOE field and site offices, the DOE Office of Basic Energy Sciences and the National Nuclear Security Administration to follow a set of operating principles and standardized agreements. The Laboratories are expected to have flexibility in the application of the principles and in the use of the standard agreements established pursuant to this MOU. Compliance with this MOU will be considered as part of the periodic appraisal of the NSRCs by the Office of Basic Energy Sciences.

B. This MOU does not provide legal authority establishing an authorized agreement format. Such authority is found elsewhere. For example, the User Facilities Class Waiver ("Non-